

NEWMAN WILLIAMS
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

E.J. a minor, by IRINA
MAYMAN, mother
Plaintiff

v.

ROBERT JOHNSON et al.,
Defendants

NO. 3:23-cv-1636

Jury Trial Demanded

(MEHALCHICK, J.)

Defendants' Statement of Facts
In Support of Motion for Summary Judgment

The defendants, Robert and Maria Johnson, aver pursuant to LR 56.1, that the following material facts are not in dispute and may be considered by the court in support of their motion for summary judgment:

1. Robert and Maria Johnson, live in a rural two-story home in Saylorsburg, Monroe County, which they share with their adult son, Gregory Johnson. Johnsons' Affidavit, ¶s 1, 2, exhibit A, p. 1.

2. The Johnsons have physical disabilities that restrict their mobility. They use wheelchairs and are unable to access the second floor of their home:

“14:23 And you said you’ve never been
14:24 upstairs.
14:25 Why haven’t you been upstairs?
15:1 A. I can’t climb stairs.
15:2 Q. Okay.
15:3 And I know --- and what --- is
15:4 there an injury or something that you
15:5 cannot climb stairs any --- anymore?
15:6 A. Yes, because I have --- yes. I
15:7 have two ripped meniscus, and on the
15:8 back of my left leg there is a tendon
15:9 that’s been compromised.”

Maria Johnson deposition, pp. 14-15, exhibit A, p. 10.

“15:21 A. I’ve never climbed stairs in
15:22 this house. Never.
15:23 Q. Okay.
15:24 A. I don’t even know what upstairs
15:25 looks like.”

Maria Johnson deposition, p. 15, exhibit A, p. 10.

“24:25 And are you primarily --- are
25:1 you mobile now or are you in a
25:2 wheelchair? How do you get around?
25:3 A. I get around with a walker in
25:4 the house. And when we go out they
25:5 throw me in a wheelchair.”

Maria Johnson deposition, pp. 24-25, exhibit A, pp. 12-13.

3. Due to a hospitalization and ill health, Robert was not deposed.

4. The Johnsons' son, Gregory Johnson, resides in an adjoining apartment in the home with his fiancé, Ariel Cohen:

"14:3 There's
14:4 a laundry area, small pantry, and then
14:5 a door into an apartment where my son
14:6 lives."

Maria Johnson deposition, p. 14, exhibit A, p. 10.

5. Greg assists his parents with their basic needs, which includes shopping and transportation to medical appointments:

36:3 A. He's pretty busy with me ---
36:4 Q. Okay.
36:5 A. --- and his father. He goes
36:6 shopping for us. He --- if we have
36:7 doctor's appointments --- I don't
36:8 drive anymore, so he takes --- he
36:9 drives to doctor's appointments.

Maria Johnson deposition, p. 36, exhibit A, p. 15.

6. Neither of the defendants drive or leave their home without their son's assistance. Johnson affidavit, ¶ 3, exhibit A, p. 3.

7. Gregory Johnson and Irina Mayman are the parents of two children, E.J. and R.J. who reside with their mother in New York. Amended Complaint, ¶ 1 (Doc. No. 9).

8. Irina Mayman admitted she was diagnosed with Munchausen by Proxy system, although she characterized the diagnosis as a "scam:"

"44:21 Q. Have you ever been diagnosed

44:22 with Munchausen by proxy syndrome?
44:23 A. According to Lehigh Valley
44:24 Controller, who rose red flags in an
44:25 article posted in August 2023 for
45:1 misdiagnosing Munchausen by proxy in
45:2 northern Pennsylvania, alerting that
45:3 it's, unfortunately, a big, red flag
45:4 during the custody evaluations.
45:5 Unfortunately, I fell under that scam
45:6 and fraud."

Irina Mayman deposition, pp. 44-45, exhibit A, pp. 41-42.

"46:11 I'm just
46:12 trying to figure out how it was that
46:13 people are saying you have that
46:14 syndrome. Who said that? Just this
46:15 --- it was in a news article that you
46:16 had the condition.
46:17 A. No. News article is describing
46:18 Dr. Otto's report in summary, that it
46:19 was a pandemic of diagnosis of
46:20 Munchausen by proxy during custody
46:21 evaluation, and that evaluations by
46:22 many other custody evaluators. And I
46:23 fell under that fraud.
46:24 Q. Okay.
46:25 So is it possible that it was
47:1 Dr. Otto who said that you suffer from
47:2 that condition?
47:3 A. Whatever she mentioned in her
47:4 report.
47:5 Q. But do you --- do you know if
47:6 it was Dr. Otto who said that about
47:7 you?
47:8 A. This is within Dr. Ott's
47:9 report.
47:10 Q. So she did say that you have
47:11 Munchausen by proxy?
47:12 A. Yes. Correct."

Irina Mayman deposition, pp. 44-45, exhibit A, p. 42.

9. The article Mayman referenced, which confirms a court order directing her to seek therapy for Munchausen by Proxy, was reported by Pennlive: <https://www.pennlive.com/news/2023/10/mom-sues-estranged-husband-after-venomous-snake-bites-their-son-in-pa-home.html> ; article at exhibit A, p. 72.

10. Munchausen by proxy syndrome, also known as factitious disorder imposed on another, is a condition where a caregiver, typically a parent, fabricates or induces illness in a person under their care, usually a child, to gain attention or sympathy. It has been described as a form of child abuse. MedlinePlus Medical Encyclopedia, Munchausen Syndrome by Proxy, <http://www.nlm.nih.gov/medlineplus/ency/article/001555.htm> , as cited in *B.S. v. Somerset Cty.*, 704 F.3d 250, 254 n.3 (3d Cir. 2013).

11. E.J. claims to have been bitten by a venomous snake his father showed him during a visit with his father, Gregory Johnson, at the defendants' home. Amended complaint, ¶ 29 (Doc. No. 9).

12. Although E.J. claims in the complaint filed by his mother that it was a venomous snake that bit him, he suffered no symptoms from this alleged bite when he returned to his mother's home:

“54:12 Q. Did you ever feel any symptoms

54:13 from your bite after you went back to
54:14 your mom's house?
54:15 A. No."

E.J. deposition, p. 54, exhibit A, p. 632.

13. When she picked him up, EJ's mother, Irina Mayman, noticed no injuries to EJ, her son never complained about being injured, and Mayman only learned of this alleged bite six months after it occurred:

41:6 Now, when you picked up the
41:7 boys after the weekend that they were
41:8 at the house, did you see a Band-Aid
41:9 on E.'s finger?
41:10 A. I didn't notice.
41:11 Q. Okay.
41:12 Was it four to six months
41:13 before you learned --- before E. said
41:14 that he suffered from a snake bite?
41:15 A. Yes.
41:16 Q. All right.
41:17 In all that time, did E. ever
41:18 complain to you about pain in his
41:19 finger?
41:20 A. No."

Irina Mayman deposition, p. 41, exhibit A, p. 42.

14. E.J. alleged that the bite occurred outside the Johnsons' home while they were watching TV with their other grandchild, R.J.:

"22:7 And who else was out there when
22:8 you were building this cage?
22:9 A. Just me and my father.
22:10 Q. Where was R.?
22:11 A. In the living room.
22:12 Q. How do you know he was in the

22:13 living room?

22:14 A. With my grandmother, watching

22:15 TV.

22:16 Q. Okay.

22:17 And where was your grandfather?

22:18 A. I don't remember."

E.J. deposition, p. 54, exhibit A, p. 54.

15. The Johnsons were not present when this alleged bite occurred.

Id.

16. In fact, E.J. made no claims to having been bitten by a snake until six months later after Irina told him she had a dream about snakes:

"52:8 Q. But at some point, you must

52:9 have told your mother.

52:10 Right?

52:11 A. Yeah.

52:12 Q. When?

52:13 A. After when she had, like, a

52:14 dream that she got bitten by a snake.

52:15 Then I told her."

E.J. deposition, p. 52, exhibit A, p. 61.

17. E.J. never told his grandparents he was bitten by a snake:

"46:19 And is it true that you never

46:20 talked to your grandfather about the

46:21 snake bite?

46:22 A. Never talked to him about the

46:23 snake bite."

E.J. deposition, p. 46, exhibit A, p. 60.

"38:18 Did you tell your grandparents

38:19 that you were bitten?

38:20 A. No.”

E.J. deposition, p. 38, exhibit A, p. 58.

18. Irina was never in the Johnsons’ home and thus can offer no testimony about the presence of snakes in their home:

“20:15 Q. Have you ever been in Robert
20:16 and Maria Johnson’s house, inside?
20:17 A. Not in Pennsylvania.
20:18 Q. Well, okay. And I’m referring
20:19 to the Pennsylvania house. So you’ve
20:20 never been inside?
20:21 A. No.
20:22 Q. How often have you been there
20:23 when you’ve been outside?
20:24 A. I’m sorry?
20:25 Q. Did you ever go to the house?
21:1 A. No.”

Irina Mayman deposition, pp. 20-21, exhibit A, p. 35.

19. E.J. has no knowledge whether the defendants were aware of the presence of snakes:

“61:6 Q. Do you know whether your
61:7 grandparents were --- whether they
61:8 knew that there was a snake in the
61:9 house before you were bitten?
61:10 A. I don’t know.
61:11 Q. You never asked them?
61:12 A. I never asked them.”

E.J. deposition, p. 61, exhibit A, p. 64.

20. The Johnsons were unaware of any injury to E.J. during his stay with them that week, including an injury from a snake bite. Johnsons' affidavit, ¶ 11, exhibit A, p. 5.

21. The Johnsons were not aware of any snakes in their house:

"34:21 So is it your contention that
34:22 there were no snakes in your home?
34:23 A. Never.
34:24 Q. Okay.
34:25 Well, in this home you said
35:1 never, but --- but Greg had a snake.
35:2 I'm sorry. But Greg had snakes when
35:3 he was growing up in your home.
35:4 A. Yes.
35:5 Q. Okay.
35:6 And is it your contention that
35:7 there were no snakes in this home in
35:8 Pennsylvania?
35:9 A. Never."

Maria Johnson deposition, pp. 34-35, exhibit A, p. 15.

"34:1 Do you recall Greg or R. or
34:2 anyone telling you that E. received a
34:3 snake bite?
34:4 A. No. There were no snakes."

Maria Johnson deposition, pp. 34, exhibit A, p. 15.

22. Greg Johnson also confirmed he kept no snakes at his parents' home:

"32:7 And so --- so is it your
32:8 testimony that there were no snakes in
32:9 the property?
32:10 A. Correct. And my mother was

32:11 pretty adamant. She didn't like
32:12 snakes. She didn't really want them
32:13 here when I moved back in."

Gregory Johnson deposition, p. 32, exhibit A, p. 25.

23. The Johnsons had no legal right to the care, custody, or control of their grandson, E.J., and thus had no legal right of supervision which they breached. *D.C. v. Pittsburgh Pub. Sch.*, 415 F. Supp. 3d 636 (W.D. Pa. 2019).

24. During their visitation at the Johnsons' home, Greg's sons slept in a room on the second floor where his grandparents could not access:

"38:1 A. Now, where did they --- did
38:2 they sleep upstairs?
38:3 A. Yes. They slept above my
38:4 parents' living and bedroom. That's
38:5 where the second floor is."

Greg Johnson deposition, p. 38, exhibit A, p. 27.

25. Irina has never been in the Johnsons' home and thus has no knowledge of snakes at the home:

"20:15 Q. Have you ever been in Robert
20:16 and Maria Johnson's house, inside?
20:17 A. Not in Pennsylvania.

Irina Mayman deposition, p. 20, exhibit A, p. 35.

26. The Johnsons' disabilities prevented them from being on the second floor:

“13:16 And now your home, can you
13:17 describe your home?
13:18 A. Let’s see. You come in the
13:19 front door. There’s a staircase that
13:20 goes upstairs, but I don’t know what’s
13:21 up there. I’ve never been up there.

Maria Johnson deposition, p. 13, exhibit A, p. 10.

27. In support of the claim Irina filed on behalf of her son, E.J., he claimed he was frightened by hissing sounds from the attic of the Johnsons’ home, which he attributed to the presence of snakes:

“46:1 Q. But you could hear hissing from
46:2 the attic?
46:3 A. Yeah, because there’s tiny
46:4 holes.
46:5 Q. Because of what?
46:6 A. Because there’s holes in the
46:7 box.
46:8 Q. There’s holes in the box.
46:9 Okay.
46:10 A. Yeah.
46:11 Q. But the attic was closed off.
46:12 Right?
46:13 A. There’s a little crack open.”

E.J. deposition, p. 46, exhibit A, p. 60.

28. E.J. claims he told his grandmother about hissing sounds, but only after he claims to have been bitten in the Johnsons’ yard:

“45:8 A. I grabbed the phone and started
45:9 to record the hissing sound, and then
45:10 she called me and I said, I got bitten
45:11 by a snake. And she says, do you want
45:12 my son to be incarcerated? And she

45:13 says I was punished.
45:14 Q. Why would your dad be
45:15 incarcerated?
45:16 A. Because she didn't want to get
45:17 in trouble.
45:18 Q. You think that would get him in
45:19 trouble if a snake bit you?
45:20 A. Yeah."

E.J. deposition, p. 45, exhibit A, p. 60.

29. The Johnsons' home has no attic:

"27:12 Is there also like an attic or
27:13 crawl space up in your home?
27:14 A. No, we have no attic.
27:15 Q. Okay.
27:16 A. No attic, no crawl space.
27:17 There was none in the plans when we
27:18 bought the house, so no."

Maria Johnson deposition, p. 27, exhibit A, p. 13.

30. Maria Johnson denies either of her grandsons told her about hearing hissing sounds in their home:

"29:10 Q. And do you recall any time ---
29:11 okay. So let's say in January of
29:12 2021. And I know we're going back
29:13 almost four years. Or anytime between
29:14 January and August of 2021 do you
29:15 recall the boys complaining at all
29:16 about hissing noises or being afraid
29:17 to be upstairs?
29:18 A. No, never. In fact, once a
29:19 month I have an exterminator come in
29:20 and exterminate the whole house. I
29:21 have terrible, terrible dread of
29:22 anything like that, you know, bugs and

29:23 things. So no, they never complained.”

Maria Johnson deposition, p. 29, exhibit A, p. 14.

31. Even if E.J.’s statement was true, plaintiff produced no evidence that either Robert or Maria Johnson had knowledge of the presence of snakes before the alleged bite.

32. Robert and Maria Johnson have no knowledge of any snakes ever being in their Pennsylvania home. Defendants’ affidavit, ¶ 15, exhibit A, p. 5.

33. E.J. never told his grandparents he was bitten by a snake:

“38:18 Did you tell your grandparents
38:19 that you were bitten?
38:20 A. No.”

E.J. deposition, p. 38, exhibit A, p. 58.

34. The defendants’ physical disabilities prevented them from supervising their adult son’s interactions with his own children.

NEWMAN|WILLIAMS

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Date: October 28, 2024

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NEWMAN|WILLIAMS

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Date: October 28, 2024

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Date: October 28, 2024